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c 233 Law Society Act

Ontario

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CHAPTER 233

Law Society Act

1. In this Act,

Interpre-
tation

- (a) "bencher" means a bencher of the Society;
- (b) "Convocation" means a regular or special meeting of the benchers convened for the purpose of transacting business of the Society;
- (c) "member" means a member of the Society and includes a life member but does not include an honorary member or a student member;
- (d) "regulations" means the regulations made under this Act;
- (e) "rules" means the rules made under this Act;
- (f) "Secretary" means the Secretary of the Society;
- (g) "Society" means The Law Society of Upper Canada;
- (h) "Treasurer" means the Treasurer of the Society.
R.S.O. 1970, c. 238, s. 1.

THE SOCIETY

2. The Law Society of Upper Canada authorized to be established by an Act of the Parliament of Upper Canada passed in the thirty-seventh year of the reign of his late Majesty George III and incorporated by an Act of the Parliament of Upper Canada passed in the second year of the reign of his late Majesty George IV is hereby continued as a corporation without share capital composed of the Treasurer, the benchers and the other members from time to time. R.S.O. 1970, c. 238, s. 2.

Society
continued
1797, c. 13
1822, c. 5

3. A meeting of the members shall be held annually at such place and at such time as is determined from time to time in Convocation, notice of which shall be given by publication as provided by the rules. R.S.O. 1970, c. 238, s. 3.

Annual
meeting

4. The permanent seat of the Society shall continue to be at Osgoode Hall in the City of Toronto. R.S.O. 1970, c. 238, s. 4.

Seat

Acquisition
and
disposition
of property

5.—(1) The Society may purchase, acquire, take by gift, bequest, devise, donation, or otherwise any real or personal property for its purposes, and it may hold, sell, mortgage, lease, or dispose of any of its real or personal property.

Trustee
powers

(2) The Society has and may exercise all powers of trustees under the laws of Ontario.

Borrowing
power

(3) The Society may borrow money for its purposes. R.S.O. 1970, c. 238, s. 5.

R.S.O. 1980,
c. 95,
ss. 84, 317
not to apply

6.—(1) Sections 84 and 317 of the *Corporations Act* do not apply to the Society.

Conflict

(2) In the event of conflict between any provision of this Act and any provision of the *Corporations Act*, the provision of this Act prevails. R.S.O. 1970, c. 238, s. 6.

Treasurer

7. The Treasurer is the president and head of the Society. R.S.O. 1970, c. 238, s. 7.

Secretary

8. The Secretary is the chief administrative officer of the Society. R.S.O. 1970, c. 238, s. 8.

Liability
of benchers,
officers and
employees

9. No action or other proceedings for damages shall be instituted against the Treasurer or any bencher, official of the Society, or person appointed in Convocation for any act done in good faith in the performance or intended performance of any duty or in the exercise or in the intended exercise of any power under this Act, a regulation or a rule, or for any neglect or default in the performance or exercise in good faith of any such duty or power. R.S.O. 1970, c. 238, s. 9.

BENCHERS

Government
of the
Society

10. The benchers shall govern the affairs of the Society, including the call of persons to practise at the bar of the courts of Ontario and their admission and enrolment to practise as solicitors in Ontario. R.S.O. 1970, c. 238, s. 10.

Honorary
benchers

11. Every person,

(a) who is an honorary bencher on the 1st day of October, 1970; or

(b) who after that day is made an honorary bencher,

is an honorary bencher but as such has only the rights and privileges prescribed by the rules. R.S.O. 1970, c. 238, s. 11.

12.—(1) The following, if and while they are members, *Ex officio* benchers are *ex officio* benchers:

1. The Minister of Justice and Attorney General for Canada.
2. The Solicitor General for Canada.
3. The Attorney General for Ontario and every person who has held that office.
4. Every retired judge of the Supreme Court of Canada or of the Federal Court of Canada who was at the time of his appointment a member of the bar of Ontario and who became an *ex officio* bencher under paragraph 5 of section 5 of *The Law Society Act* as that paragraph was before it was repealed in 1964. R.S.O. 1960, c. 207
5. Every retired judge of the Supreme Court of Ontario who became an *ex officio* bencher under paragraph 6 of section 5 of *The Law Society Act* as that paragraph was before it was repealed in 1964.
6. Every person who was elected a bencher at four quinquennial elections and became an *ex officio* bencher under paragraph 4 of section 5 of *The Law Society Act* as that paragraph was before it was re-enacted in 1964.
7. Every person who was elected a bencher at three quinquennial elections and served as a bencher for fifteen years and became an *ex officio* bencher under paragraph 4 of section 5 of *The Law Society Act* as re-enacted in 1964.
8. Every person who is elected a bencher at three elections and serves as a bencher for fifteen years before the election in 1975.
9. Every person who is elected a bencher at four elections and who serves as a bencher for sixteen years. R.S.O. 1970, c. 238, s. 12 (1); 1972, c. 1, s. 9 (7).

(2) An *ex officio* bencher under subsection (1) has all the rights and privileges prescribed by the rules, other than the right to vote in Convocation or in a committee. Rights and privileges

(3) Notwithstanding subsection (2), an *ex officio* bencher under paragraph 3 of subsection (1) has the right to vote in Convocation and in a committee. Attorney General has vote

Option

(4) An elected benchner who becomes qualified as an *ex officio* benchner under subsection (1) may, if he chooses, continue as an elected benchner and is eligible to be re-elected in any subsequent election of benchers without prejudice to his right to become an *ex officio* benchner at any time so long as he is still an elected benchner. R.S.O. 1970, c. 238, s. 12 (2-4).

Attorney General, guardian of the public interest

13.—(1) The Attorney General for Ontario shall serve as the guardian of the public interest in all matters within the scope of this Act or having to do with the legal profession in any way, and for this purpose he may at any time require the production of any document, paper, record or thing pertaining to the affairs of the Society. R.S.O. 1970, c. 238, s. 13 (1); 1972, c. 1, s. 9 (7).

Admissions

(2) No admission of any person in any document, paper, record or thing produced under subsection (1) is admissible in evidence against that person in any proceedings other than disciplinary proceedings under this Act. R.S.O. 1970, c. 238, s. 13 (2).

Protection of Minister

(3) No person who is or has been the Attorney General for Ontario is subject to any disciplinary proceedings of the Society or to any penalty imposed in Convocation or in a committee of benchers for anything done by him while exercising the functions of such office. R.S.O. 1970, c. 238, s. 13 (3); 1972, c. 1, s. 9 (7).

Treasurers and former Treasurers are *ex officio* benchers

14.—(1) Every member who has been or is elected to the office of Treasurer is an *ex officio* benchner with all the rights and privileges of an elected benchner.

Rights and privileges

(2) Every *ex officio* benchner under subsection (1) shall, upon attaining the age of seventy-five years, continue to be an *ex officio* benchner with all the rights and privileges prescribed by the rules, other than the right to vote in Convocation or in a committee. R.S.O. 1970, c. 238, s. 14.

Election of benchers

15.—(1) An election of benchers shall be held in 1971 and in every fourth year thereafter at each of which forty benchers shall be elected by secret ballot from and by the members in accordance with this Act and the rules.

Area representation

(2) Twenty of the forty benchers mentioned in subsection (1) shall be members whose addresses on the records of the Society on the last day for nominations are within The Municipality of Metropolitan Toronto as it is constituted on that day.

Idem

(3) Twenty of the forty benchers mentioned in subsection (1) shall be members whose addresses on the records of the Society on the last day for nominations are outside The

Municipality of Metropolitan Toronto as it is constituted on that day. R.S.O. 1970, c. 238, s. 15.

16. Every member in good standing and not in arrear to the Society for any fee or levy is an elector qualified to vote at an election of benchers. R.S.O. 1970, c. 238, s. 17. Who may vote

17. No member is eligible to be a candidate for bencher at any election who is not qualified to vote at the election. R.S.O. 1970, c. 238, s. 18. Qualification of candidates

18. Any bencher is eligible for re-election. R.S.O. 1970, c. 238, s. 19. Benchers may be re-elected

19. Any member who was qualified to vote at an election of benchers may, in accordance with the rules, petition Convocation against the election of any bencher. R.S.O. 1970, c. 238, s. 20. Election petitions

20. The elected benchers shall take office at the first regular Convocation following their election and, subject to this Act, shall hold office until their successors take office. R.S.O. 1970, c. 238, s. 21. Taking office

21.—(1) Where there is a failure to elect the requisite number of qualified benchers, the remaining benchers shall as soon as convenient supply the deficiency by electing in Convocation the requisite number of qualified members as benchers. Making up deficiency

(2) Where there is a vacancy in the requisite number of benchers, the remaining benchers shall as soon as convenient fill the vacancy by electing in Convocation a qualified member as a bencher to fill the vacancy, but where at the last quadrennial election of benchers there were more qualified candidates than benchers to be elected, the remaining benchers shall as soon as convenient fill the vacancy by electing in Convocation as a bencher the qualified member who among the defeated candidates at such election received the greatest number of votes. Filling of vacancy

(3) The benchers elected under this section shall, subject to this Act, hold office until their successors take office. R.S.O. 1970, c. 238, s. 22. Term of office

22. The benchers may remove from office any elected bencher who fails to attend six consecutive regular Convocations. R.S.O. 1970, c. 238, s. 23. Removal for non-attendance

Benchers
appointed
by
L.G. in C.

23.—(1) The Lieutenant Governor in Council may appoint four persons who are not members to be benchers of whom two shall be persons ordinarily resident in The Municipality of Metropolitan Toronto and two shall be persons ordinarily resident in Ontario outside of The Municipality of Metropolitan Toronto, and each person so appointed has all the rights and privileges of an elected bencher.

Expiration
of appoint-
ment

(2) The appointment of every person appointed under subsection (1) expires at the first regular Convocation following the election of benchers held next after the effective date of his appointment, and a person whose appointment expires is eligible for reappointment. 1973, c. 49, s. 1.

Quorum

24.—(1) Except as provided by subsection (2), ten benchers present and entitled to vote in Convocation constitute a quorum for the transaction of business.

Idem,
disciplinary
matters

(2) No disciplinary matter shall be dealt with in Convocation unless fifteen or more benchers are present and entitled to vote. R.S.O. 1970, c. 238, s. 24.

Election of
Treasurer

25.—(1) The benchers shall annually at the regular Convocation in the month of May, or at such other time as the benchers may fix, elect one of their number as Treasurer.

Treasurer
eligible for
re-election

(2) The Treasurer is eligible for re-election. R.S.O. 1970, c. 238, s. 25.

ADVISORY COUNCIL

Meeting

26. The Treasurer shall convene a meeting in each year consisting of,

- (a) the chairman and the vice-chairman of each standing committee;
- (b) the president of each county or district law association, or his nominee, being a member of his association; and
- (c) one member who is a full-time teacher at each law school in Ontario approved by the Society, to be appointed annually by the faculty of the law school,

to consider the manner in which the members of the Society are discharging their obligations to the public and generally matters affecting the legal profession as a whole. 1973, c. 49, s. 2.

ADMISSION OF MEMBERS

27.—(1) Every application for admission to the Society shall be on the prescribed form and be accompanied by the prescribed fees. ^{Form of applications}

(2) An applicant for admission to the Society shall be of good character. ^{Good character}

(3) No applicant for admission to the Society who has met all admission requirements shall be refused admission. ^{Where no refusal}

(4) No application for admission to the Society shall be refused until the applicant has been given an opportunity to appear in person before a committee of benchers. ^{Appearance before refusal}

(5) Where an applicant for admission to the Society is refused admission, he is entitled to a statement of the reasons for the refusal. ^{Statement of reasons}

(6) Where an application for admission to the Society has been refused, another application based on new evidence may be made at any time. R.S.O. 1970, c. 238, s. 27. ^{Subsequent applications}

CLASSES OF MEMBERS

28. Subject to sections 30, 31, 32, 34, 35, 36 and 38, ^{Classes of members}

(a) the persons, ^{honorary members}

(i) who are honorary members of the Society on the 31st day of December, 1980,

(ii) who after that day are made honorary members of the Society,

are honorary members with only the rights and privileges prescribed by the rules;

(b) the persons, being Canadian citizens or other British subjects, ^{life members}

(i) who are honorary life members on the 31st day of December, 1980, or

(ii) who after that day become life members,

are life members with the rights and privileges of members, and such additional rights and privileges as are prescribed by the rules;

members

(c) the persons, being Canadian citizens or other British subjects,

(i) who are members on the 31st day of December, 1980, or

(ii) who after that day successfully complete the Bar Admission Course and are called to the bar and admitted and enrolled as solicitors, or

(iii) who after that day transfer from a jurisdiction outside Ontario and are called to the bar and admitted and enrolled as solicitors,

are members and entitled to practise law in Ontario as barristers and solicitors;

student
members

(d) the persons,

(i) who are students-at-law in the Bar Admission Course on the 31st day of December, 1980, or

(ii) who after that day become students-at-law in the Bar Admission Course,

are student members with the rights and privileges prescribed by the rules. R.S.O. 1970, c. 238, s. 28, *revised*.

Members
are officers
of the
courts

29. Every member is an officer of every court of record in Ontario. R.S.O. 1970, c. 238, s. 29.

Resignation

30.—(1) A member or student member may make application to resign from the Society, and Convocation may accept the resignation of such member or student member whereupon all his rights and privileges as a member or student member, as the case may be, cease.

Re-
admission

(2) Any former member or student member may make application for readmission as a member or student member, as the case may be, and Convocation may readmit such former member or student member. R.S.O. 1970, c. 238, s. 30.

Effect of
appoint-
ment to
Bench

31. The membership of any member or former member who has assumed office or hereafter assumes office as,

(a) a full-time judge under any Act of the Parliament of Canada; or

(b) a full-time judge under the *Provincial Courts Act*, or the *Small Claims Courts Act*; or

- (c) the Senior Master or a full-time master or a full-time assistant master or a full-time local master of the Supreme Court or a full-time taxing officer,

is, while he continues in any such office, in abeyance, and, upon his ceasing to hold such office, shall be restored by his giving notice in writing to such effect to the Secretary. R.S.O. 1970, c. 238, s. 31.

32.—(1) When a member ceases to be a Canadian citizen or other British subject, he ceases to be a member. Effect of
losing
Canadian
citizenship

(2) Any person whose membership terminated under subsection (1) may, upon again becoming a Canadian citizen or other British subject, make application for readmission as a member and Convocation may readmit him. R.S.O. 1970, c. 238, s. 32. Re-
admission

DISCIPLINE

33.—(1) No disciplinary action under section 34, 35, 37 or 38 shall be taken unless, Complaint
and hearing

(a) a complaint under oath has been filed in the office of the Secretary and a copy thereof has been served on the person whose conduct is being investigated;

(b) the person whose conduct is being investigated has been served with a notice of the time and place of the hearing; and

(c) a committee of Convocation has heard evidence of or on behalf of the complainant and, if the person whose conduct is being investigated appears at the hearing and so requests, has heard his evidence and any evidence on his behalf and has reached the decision that he is guilty.

(2) Any person presiding at a hearing may administer oaths to witnesses and require them to give evidence under oath. Power to
take sworn
evidence

(3) If the person whose conduct is being investigated fails to appear in answer to the notice at the time and place appointed, the hearing may be conducted in his absence. Failure to
appear

(4) Hearings shall be held *in camera*, but if the person whose conduct is being investigated requests otherwise by a notice in writing delivered to the Secretary before the day fixed for the hearing, the committee may conduct the hearing in public or otherwise as it considers proper. Disciplinary
hearings
to be held
in camera

Adjourn-
ments

(5) A hearing may be adjourned at any time and from time to time.

Attendance
of person
being
investigated

(6) A person whose conduct is being investigated, if present in person at the hearing, has the right to be represented by counsel, to adduce evidence and to make submissions, and any such person may be compelled to attend and give evidence in the manner provided in subsection (10), but such person shall be advised of his right to object to answer any question under section 9 of the *Evidence Act* and section 5 of the *Canada Evidence Act*.

R.S.O. 1980,
c. 145
R.S.C. 1970,
c. E-10

(7) At a hearing, the complainant and the person whose conduct is being investigated have the right to examine the witnesses called by them respectively and to cross-examine the witnesses opposed in interest, including the deponent of an affidavit or a statutory declaration submitted in evidence.

Hearing of
evidence

(8) The oral evidence submitted at a hearing shall be taken down in writing or by any other method authorized by the *Evidence Act*.

Rules of
evidence

(9) The rules of evidence applicable in civil proceedings are applicable at a hearing, except that an affidavit or statutory declaration of any person is admissible in evidence as *prima facie* proof of the statements made therein.

Summons
to witness

(10) The Treasurer, the chairman or a vice-chairman of a committee of Convocation, or the Secretary may, and the Secretary upon application of a person whose conduct is being investigated shall, issue a summons in the prescribed form commanding the attendance and examination of any person as a witness, and the production of any document or thing, the production of which could be compelled at the trial of an action, before the committee at the time and place mentioned in the summons and stating that failure to obey the summons will render the person liable to imprisonment on an application to the Supreme Court, but the person whose attendance is required is entitled to the like conduct money and payment for expenses and loss of time as upon attendance as a witness at a trial in the Supreme Court.

Failure of
witness to
appear, etc.

(11) If any person,

- (a) on being duly summoned to appear as a witness makes default in attending; or
- (b) being in attendance as a witness refuses to take an oath legally required to be taken, or to produce any document or thing in his power or control

legally required to be produced by him, or to answer any question which he is legally required to answer; or

- (c) does any other thing which would, if the committee had been a court of law having power to commit for contempt, have been contempt of that court,

the person presiding at the hearing may certify the offence of that person under his hand to the Supreme Court and the court may thereupon inquire into the alleged offence and after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any submissions that may be offered in defence, punish or take steps for the punishment of that person in the like manner as if he had been guilty of contempt of court.

(12) The decision taken after a hearing shall be in writing and shall contain or be accompanied by the reasons for the decision in which are set out the findings of fact and the conclusions of law, if any, based thereon, and a copy of the decision and the reasons therefor, together with a notice to the person whose conduct is being investigated of his right of appeal, shall be served upon him within thirty days after the date of the decision. Decision

(13) Any document required to be served under this Act upon a person whose conduct is being investigated shall be served personally upon him or by mailing a copy thereof in a registered letter addressed to him at his last known residence or office address as shown by the records of the Society, and service shall be effected not less than ten days before the date of the hearing or the event or thing required to be done, as the case may be, and proof by affidavit of the service is sufficient. R.S.O. 1970, c. 238, s. 33. Service of documents

34. If a member is found guilty of professional misconduct or of conduct unbecoming a barrister and solicitor after due investigation by a committee of Convocation, Convocation may by order cancel his membership in the Society by disbarring him as a barrister and striking his name off the roll of solicitors or may by order suspend his rights and privileges as a member for a period to be named or may by order reprimand him or may by order make such other disposition as it considers proper in the circumstances. R.S.O. 1970, c. 238, s. 34. Disbarment, etc., for misconduct

35. If a member has been found pursuant to any Act to be mentally incompetent or mentally ill, or has been found after due inquiry by a committee of Convocation incapable of Suspension for incapacity

practising law as a barrister and solicitor by reason of age, physical or mental illness including addiction to alcohol or drugs, or any other cause, Convocation may by order limit or suspend his rights and privileges as a member for such time and on such terms as it considers proper in the circumstances. R.S.O. 1970, c. 238, s. 35.

Suspension
for failure
to pay
fees

36. If a member fails to pay any fee or levy payable by him to the Society within four months after the day on which payment is due, Convocation may by order suspend his rights and privileges as a member for such time and on such terms as it considers proper in the circumstances. R.S.O. 1970, c. 238, s. 36.

Reprimand
in committee
for
misconduct

37. If a committee of Convocation finds that a member has been guilty of professional misconduct or conduct unbecoming a barrister and solicitor which in its opinion does not warrant disbarment, suspension or reprimand in Convocation, the committee may by order reprimand him. R.S.O. 1970, c. 238, s. 37.

Student
members'
misconduct

38. If a student member is found after due inquiry by a committee of Convocation guilty of conduct unbecoming a student member, the committee may by order reprimand him or Convocation may by order cancel his student membership or may by order suspend his rights and privileges as a student member for a period to be named or may by order reprimand him or may by order make such other disposition as it considers proper in the circumstances. R.S.O. 1970, c. 238, s. 38.

Appeal to
Convocation

39.—(1) Any member who has been found guilty under section 37 or any student member who has been found guilty under section 38 and, in either case, has been ordered to be reprimanded in committee, may appeal from the order of reprimand to Convocation within fifteen days from the day upon which he is served with the order of the committee.

Procedure
and record

(2) An appeal under this section shall be by motion, notice of which shall be served upon the Secretary, and the record shall consist of a copy of the proceedings before the committee, the evidence taken, the committee's report and all decisions, findings and orders of the committee in the matter.

Orders

(3) Upon the hearing of an appeal under this section, Convocation may vary the punishment imposed by the committee or may refer the matter or any part thereof back to a committee with such directions as it considers proper or may make such order as it considers proper in the circumstances.

(4) No benchler who sat on the committee of Convocation when the order appealed from was made shall take any part in the hearing of the appeal in Convocation. Disqualification

(5) Subject to section 44, the decision of Convocation under this section is final and not subject to any further appeal. Decision final
R.S.O. 1970, c. 238, s. 39.

40. A person whose membership or student membership has been cancelled or whose rights and privileges as a member or student member have been suspended or who has been reprimanded may be ordered to pay the expense, or part of the expense, incurred by the Society in the investigation or hearing of any complaint in respect of which he has been found guilty. R.S.O. 1970, c. 238, s. 40. Expenses of investigations

41. Where it appears that disciplinary proceedings against a member or student member were unwarranted, Convocation may order that such costs as it considers just be paid by the Society to the member or student member whose conduct was the subject of the proceedings. R.S.O. 1970, c. 238, s. 41. Costs where disciplinary proceedings unwarranted

42.—(1) If the Treasurer or the Secretary or the chairman or the vice-chairman of any committee of Convocation dealing with disciplinary matters has reasonable cause to believe that a member has been or may be guilty of misconduct in connection with any property in his possession or under his control, a judge of the Supreme Court may, upon an *ex parte* application by the Society, order that the property described in the order shall not be paid out or dealt with by the person or persons named in the order without the leave of a judge of the Supreme Court. Stop-orders on members bank accounts, etc.

(2) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection (1). R.S.O. 1970, c. 238, s. 42. Discharge, etc., of stop-orders

43.—(1) Where a member or former member dies, disappears or leaves Ontario or a person's membership in the Society is cancelled or his rights and privileges as a member are suspended and, in any such event, his practice is neglected to the prejudice of any person or no provision has been made for the protection of his clients' interests, a judge of the Supreme Court may, upon an *ex parte* application by the Society, by order appoint a person as trustee, with or without bond, to take possession of any property in the possession of or under the control of such member or former member for the purpose of preserving, carrying on or winding up the practice of such member or former member. Appointment of trustees

Idem

(2) A person appointed under subsection (1) shall, in respect of any trust property of such member or former member, be the trustee thereof, and he shall in respect thereof take the place of the personal representative, committee or other representative, if any, of such member or former member.

Discharge,
etc., of
order

(3) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection (1).

Fees, etc.,
of trustee

(4) The judge may in any order under this section make provision for the remuneration, disbursements and indemnification of the trustee out of such moneys or otherwise as the judge may specify. R.S.O. 1970, c. 238, s. 43.

Appeal to
Divisional
Court

44.—(1) Any person dissatisfied with a decision of Convocation made under section 30, 32 or 46, or any person against whom an order has been made under section 34, 35 or 36, or any person against whom an order, other than an order of reprimand in committee, has been made under section 38, or any person whose punishment has been ordered to be increased under subsection 39 (3) may appeal from the decision or order to the Divisional Court in accordance with the rules of court within fifteen days from the day upon which he is served with the decision or order.

Certified
copies of
papers

(2) Upon the request of any person desiring to appeal and upon payment of the cost thereof, the Secretary shall furnish such person with a certified copy of all proceedings, evidence, reports, orders and papers received as evidence in Convocation and any committee thereof in dealing with and disposing of the matter complained of.

Failure to
pay costs

(3) If the appellant fails to pay the cost of the certified copy and the cost of such additional copies of the evidence as may be reasonably required for the purposes of the appeal within fifteen days after written demand from the Secretary, the appeal shall be deemed to be abandoned.

Procedure
and record

(4) An appeal under this section shall be by motion, notice of which shall be served upon the Secretary, and the record shall consist of a copy, certified by the Secretary, of the proceedings before Convocation or any committee thereof, the evidence taken, the report of Convocation or any committee thereof and all decisions, findings and orders of Convocation or any committee thereof in the matter.

Orders

(5) Upon the hearing of an appeal under this section, the Divisional Court may make such order as the court considers proper or

may refer the matter or any part thereof back to Convocation with such directions as the court considers proper.

(6) The Divisional Court may make such order as to the costs of the appeal as the court considers proper. R.S.O. 1970, c. 238, s. 44, *revised*. Costs

45.—(1) When a person's membership or student membership is cancelled, all his rights and privileges as a member or student member, as the case may be, cease, or, when a person's membership or student membership is suspended, the member or student member shall, during the period of suspension, possess no rights or privileges as a member or student member. Effect of
cancellation
and
suspension

(2) Where an appeal under section 44 is pending, the decision or order appealed against shall not thereby be stayed, but an application may be made to a judge of the Divisional Court for a stay of the decision or order pending the disposition of the appeal, and the judge may dispose of the application as he considers proper and in so doing he may impose such terms and conditions as he considers appropriate. R.S.O. 1970, c. 238, s. 45. Where
appeal
pending

46. Where a person's membership or student membership is cancelled, he may apply to be readmitted, and Convocation, after due inquiry by a committee thereof, may readmit him as a member or student member, as the case may be. R.S.O. 1970, c. 238, s. 46. Re-
admission

47. Where the rights and privileges of a member or student member are suspended for a definite or indefinite period, he may apply at any time to have his rights and privileges restored, and Convocation, after due inquiry by a committee thereof, may restore his rights and privileges as a member or student member, as the case may be. R.S.O. 1970, c. 238, s. 47. Termination
of suspension

48. Upon the readmission of a person as a member or student member or upon the termination of the suspension of the rights and privileges of a member or student member or upon the reprimand of a member or student member, Convocation or a committee thereof may impose upon him such terms and conditions as it considers proper. R.S.O. 1970, c. 238, s. 48. Terms and
conditions

49. Notice of admission to membership and of any cancellation, suspension, resignation, readmission or other change in Notice to
Registrar
of S.C.O.

a member's status in the Society shall be given forthwith by the Secretary to the Registrar of the Supreme Court who shall keep a record thereof. R.S.O. 1970, c. 238, s. 49.

PROHIBITIONS AND OFFENCES

Prohibition
as to
practice, etc.

50.—(1) Except where otherwise provided by law, no person, other than a member whose rights and privileges are not suspended, shall act as a barrister or solicitor or hold himself out as or represent himself to be a barrister or solicitor or practise as a barrister or solicitor.

Offence

(2) Every person who contravenes any provision of subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$1,000.

Proceedings
to enjoin
person
convicted
from
practising
law

(3) Where a conviction has been made under subsection (2), the Society may apply to a judge of the Supreme Court by originating motion for an order enjoining the person convicted from practising as a barrister or solicitor, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

Discharge,
etc., of
order

(4) Any person may apply to a judge of the Supreme Court for an order varying or discharging any order made under subsection (3). R.S.O. 1970, c. 238, s. 50.

COMPENSATION FUND

Compensa-
tion Fund

51.—(1) The Society shall continue to maintain the fund known as "the Compensation Fund" and shall continue to hold it in trust for the purposes of this section.

Composition
of Fund

(2) The Compensation Fund shall be made up of,

- (a) all moneys paid by members of the Society under subsection (3);
- (b) all moneys earned from the investment of moneys in the Fund;
- (c) all moneys recovered under subsection (7); and
- (d) all moneys contributed by any person.

(3) Every member, other than those of a class exempted by the rules, shall pay to the Society for the Compensation Fund such sum as is prescribed from time to time by the rules. Compensation Fund levy

(4) The Society may insure with any insurer licensed to carry on business in Ontario for such purposes and on such terms as Convocation considers expedient in relation to the Compensation Fund, and, in such event, the moneys in the Fund may be used for the payment of premiums. Insurance

(5) Convocation in its absolute discretion may make grants from the Compensation Fund in order to relieve or mitigate loss sustained by any person in consequence of dishonesty on the part of any member in connection with such member's law practice or in connection with any trust of which he was or is a trustee, notwithstanding that after the commission of the act of dishonesty he may have died or ceased to administer his affairs or to be a member. Grants

(6) No grant shall be made out of the Compensation Fund unless notice in writing of the loss is received by the Secretary within six months after the loss came to the knowledge of the person suffering the loss or within such further time, not exceeding eighteen months, as in any case may be allowed by Convocation. Conditions of grants

(7) If a grant is made under this section, the Society is subrogated to the amount of the grant to any rights or remedies to which the person receiving the grant was entitled on account of the loss in respect of which the grant was made against the dishonest member or any other person, or, in the event of the death or insolvency or other disability of such member or other person, against his personal representative or other person administering his estate. Subrogation

(8) A person to whom a grant is made under this section, or, in the event of his death or insolvency or other disability, his personal representative or other person administering his estate, has no right to receive anything from the dishonest member or his estate in respect of the loss in respect of which the grant was made until the Society has been reimbursed the full amount of the grant. Grantees' rights conditionally limited

(9) Where a grant has been made under this section and the dishonest member has been declared a bankrupt, the Society is entitled to prove against the bankrupt's estate for the full amount of the claim of the person to whom the grant was made and to receive all dividends on such amount until the Society has been reimbursed the full amount of the grant. Reimbursement from bankrupt's estate

Delegation
of powers
to committee
or referee
or both

(10) Convocation may delegate any of the powers conferred upon it by this section to a committee of Convocation and, whether or not Convocation has made any such delegation, it may appoint any member as a referee and delegate to him any of the powers conferred upon it by this section that are not delegated to a committee.

Reports

(11) Where Convocation has delegated any of its powers under this section to a committee or to a referee, the committee or referee, as the case may be, shall report as required to Convocation, but where there is a delegation to both a committee and a referee, the referee shall report as required to the committee.

Costs of
administra-
tion

(12) There may be paid out of the Compensation Fund the costs of its administration, including the costs of investigations and hearings and all other costs, salaries and expenses necessarily incidental to the administration of the Fund. R.S.O. 1970, c. 238, s. 51.

THE LAW FOUNDATION OF ONTARIO

Interpre-
tation

52. In this section and in sections 53, 54, 55, 56, 57, 58 and 59,

(a) "board" means the board of trustees of the Foundation;

(b) "Foundation" means The Law Foundation of Ontario referred to in section 53;

(c) "trustee" means a trustee of the board. 1973, c. 49, s. 3, *part.*

Foundation
continued

53.—(1) The corporation known as The Law Foundation of Ontario is continued as a corporation without share capital and shall consist of the trustees for the time being of the board.

Application of
R.S.O. 1980,
c. 95

(2) The *Corporations Act* does not apply to the Foundation. 1973, c. 49, s. 3, *part.*

Board of
trustees

54.—(1) The affairs of the Foundation shall be managed and controlled by a board of trustees consisting of five trustees of whom two shall be appointed by the Attorney General and three shall be appointed by the Society.

Quorum

(2) Three trustees constitute a quorum.

(3) Where there are not more than two vacancies in the membership of the board, the remaining trustees constitute the board for all purposes. Vacancies

(4) The trustees shall serve without remuneration, but each trustee is entitled to receive his actual disbursements for expenses incurred for any services rendered by him at the direction of the board. Remuneration

(5) The accounts and financial transactions of the Foundation shall be audited annually by an auditor or auditors appointed by the board. Audit

(6) The board shall make a report annually to the Attorney General on the activities of the Foundation, including the report of the auditor under subsection (5), and the Attorney General shall lay the report before the Assembly if it is in session or, if not, at the next ensuing session. 1973, c. 49, s. 3, *part*. Annual report

55.—(1) The objects of the Foundation are to establish and maintain a fund to be used for any or all of the following purposes: Objects

1. Legal education and legal research.
2. Legal aid.
3. The establishment, maintenance and operation of law libraries.

(2) The funds of the Foundation shall be derived from, Derivation of funds

- (a) moneys received from members under section 57;
- (b) gifts, bequests and devises referred to in section 56; and
- (c) moneys resulting from the use, disposal or investment of property received under clauses (a) and (b).

(3) The Board shall apply the funds of the Foundation for such of its purposes as the board considers appropriate, but at least 75 per cent of the net revenue received in each year under clause (2) (a) shall be paid to the Legal Aid Fund established under the *Legal Aid Act*. 1973, c. 49, s. 3, *part*. Application of funds

Powers of
Foundation
R.S.O. 1980,
c. 219

56.—(1) In addition to the powers and privileges mentioned in section 26 of the *Interpretation Act*, the Foundation has power,

- (a) to invest the funds of the Foundation in such classes of securities as trustees are authorized to invest trust funds;
- (b) to pay out of the funds of the Foundation the costs, charges and expenses necessarily incurred in the administration of the Foundation and in carrying out its objects;
- (c) to enter into agreements with any person and pay and apply any of its funds for the implementation of its objects.

Gifts,
devises,
etc.

(2) The Foundation has power to receive gifts, bequests and devises of property, real or personal, and to hold, use or dispose of such property in furtherance of the objects of the Foundation, subject to the terms of any trust affecting the same.

Idem

(3) Any form of words is sufficient to constitute a gift, bequest or devise to the Foundation so long as the person making the gift, bequest or devise indicates an intention to contribute presently or prospectively to the Foundation.

Powers of
the board

(4) The board may pass by-laws not contrary to this Act to achieve the objects of the Foundation and to regulate and govern its procedure and the conduct and administration of the affairs of the Foundation. 1973, c. 49, s. 3, *part*.

Trust funds
to bear
interest

57.—(1) Every member who holds money in trust for or on account of more than one client in one fund shall hold the money in an account at a chartered bank, provincial savings office or registered trust company, bearing interest at a rate approved by the trustees.

Interest
in trust

(2) The interest accruing on money held in an account referred to in subsection (1) shall be deemed to be held in trust for the Foundation.

Payment to
Foundation

(3) Every member to whom subsection (1) applies shall,

- (a) file reports with the Foundation as to the interest referred to in subsection (2); and
- (b) remit or cause to be remitted to the Foundation all interest moneys referred to in subsection (2),

in the manner and at the times prescribed by the regulations.

(4) Subject to subsection (5), a member is not liable, whether ^{Immunity} as solicitor or as trustee, to account to any person as client or as settlor or beneficiary of the trust other than the Foundation, for interest on moneys held under subsection (1).

(5) Nothing in this section shall be deemed to affect, ^{Exceptions}

- (a) any arrangement in writing between a member and the person for whom he holds money in trust as to the disposition of the interest accruing thereon; or
- (b) any entitlement by a client to the interest accruing on money held in trust in an account separate from any other money. 1973, c. 49, s. 3, *part*.

58.—(1) The Society shall in each year report to the ^{Report by Society} Foundation the name and office or residence address shown by the records of the Society of every member who files a report with the Society that shows the member holds money on deposit in a trust account for or on account of clients.

(2) The Foundation may require a member whose name is ^{Report by member} contained in a report by the Society under subsection (1) to file a report with the Foundation stating whether or not the member has received or been credited with interest on moneys held by him in a trust account for or on account of clients. 1973, c. 49, s. 3, *part*.

59. Subject to the approval of the Lieutenant Governor ^{Regulations} in Council, the board may make regulations,

- (a) governing the form, content and filing of the reports required under section 57;
- (b) governing the time and manner of remitting the interest moneys referred to in section 57 to the Foundation;
- (c) prescribing the form and the time of filing of reports required under section 58. 1973, c. 49, s. 3, *part*.

LEGAL EDUCATION; DEGREES

60.—(1) The Society may maintain the Bar Admission ^{Bar Admission Course} Course and programs of continuing legal education.

(2) The Society may grant degrees in law. R.S.O. 1970, ^{Law degrees} c. 238, s. 52.

INDEMNITY FOR PROFESSIONAL LIABILITY

Indemnity
for
professional
liability

61. The Society may make arrangements for its members respecting indemnity for professional liability and respecting the payment and remission of premiums in connection therewith and prescribing levies to be paid by members or any class thereof and exempting members or any class thereof from all or any part of any such levy. R.S.O. 1970, c. 238, s. 53.

RULES

Rules

62.—(1) Subject to section 63, Convocation may make rules relating to the affairs of the Society and, without limiting the generality of the foregoing,

1. providing procedures for the making, amendment and revocation of the rules;
2. prescribing the seal and the coat of arms of the Society;
3. providing for the execution of documents by the Society;
4. respecting the borrowing of money and the giving of security therefor;
5. fixing the financial year of the Society and providing for the audit of the accounts and transactions of the Society;
6. providing for the time and manner of and the methods and procedures for the election of benchers;
7. providing procedures for the election of the Treasurer, the filling of a vacancy in the office of Treasurer, the appointment of an acting Treasurer to act in the Treasurer's absence or inability to act, and prescribing the Treasurer's duties;
8. providing for the appointment of and prescribing the duties of the Secretary, one or more deputy secretaries and assistant secretaries and such other officers as are considered appropriate;
9. respecting Convocation;
10. providing for the establishment, composition, jurisdiction and operation of standing and other committees and delegating to any committee such of the powers and duties of Convocation as may be considered expedient;

11. governing honorary benchers, *ex officio* benchers and honorary members and prescribing their rights and privileges;
12. governing members, life members and student members, and prescribing their rights and privileges;
13. prescribing fees and levies for members and student members or any class of either of them, and providing for the payment and remission thereof and exempting any class of either of them from all or any part of such fees or levies;
14. respecting the Compensation Fund and prescribing the amount of the levy to be paid to the Society for the Fund and exempting any class of members from all or any part of such levy;
15. prescribing oaths for members and student members;
16. providing for the payment to the Society by any member of the cost of any investigation or audit of his books, records, accounts and transactions;
17. providing for and governing meetings of members or representatives of members;
18. prescribing procedures for the call to the bar of barristers and the admission and enrolment of solicitors;
19. defining and governing the employment of student members while under articles;
20. providing and governing bursaries, scholarships, medals and prizes;
21. providing for and governing extension courses, continuing legal education, and legal research;
22. governing degrees in law;
23. providing for and governing libraries;
24. providing for the occasional appearance as counsel in the courts of Ontario and before provincial judges, with the consent of the Treasurer and of the court or judge, of members of the legal profession from outside Ontario;

25. providing for the establishment, maintenance and administration of a benevolent fund for members and the dependants of deceased members;
26. prescribing forms and providing for their use, except the form of summons referred to in subsection 33 (10).

Interpreta-
tion of rules

(2) The rules made under subsection (1) shall be interpreted as if they formed part of this Act. R.S.O. 1970, c. 238, s. 54 (1, 2).

Availability
of copies of
rules

(3) A copy of the rules made under subsection (1), as amended from time to time,

(a) shall be filed in the office of the Attorney General; and

(b) shall be available for public inspection in the office of the Secretary. R.S.O. 1970, c. 238, s. 54 (3); 1972, c. 1, s. 9 (7).

REGULATIONS

Regulations

63. Subject to the approval of the Lieutenant Governor in Council, Convocation may make regulations respecting any matter that is outside the scope of the rule-making powers specified in section 62 and, without limiting the generality of the foregoing,

1. respecting any matter ancillary to the provisions of this Act with regard to the admission, conduct and discipline of members and student members and the suspension and restoration of their rights and privileges, the cancellation of memberships and student memberships, the resignation of members, and the readmission of former members and student members;
2. requiring and prescribing the books, records and accounts to be kept by members and providing for the exemption from such requirements of any class of members;
3. requiring and providing for the examination or audit of members' books, records, accounts and transactions and the filing with the Society of reports with respect thereto;
4. authorizing and providing for the preparation, publication and distribution of a code of professional conduct and ethics;

5. respecting the reporting and publication of the decisions of the courts;
6. defining and governing the employment of barristers and solicitors clerks;
7. respecting legal education, including the Bar Admission Course;
8. providing for the establishment, operation and dissolution of county and district law associations and respecting grants and loans to such associations;
9. prescribing the form of the summons referred to in subsection 33 (10). R.S.O. 1970, c. 238, s. 55.

